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TAGS: PHUM KJUS PGOV VE
SUBJECT: VENEZUELAN MAYOR RELEASED FROM PRISON

Classified By: POLITICAL COUNSELOR ABELARDO A. ARIAS FOR REASONS 1.4 (d)
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SUMMARY

¶1. (C) Judge Dayva Soto Vallenilla released Baruta Mayor Henrique Capriles from pre-trial detention September 6, following a defense motion on September 2. Capriles must appear before the court every 15 days, remain in Venezuela, and is not allowed to make public comments on the case against him. Prosecutor Danilo Anderson has five days to appeal the decision. Chacao Mayor Leopoldo Lopez said the decision "gave a ray of light in a Judicial Power which is rotten, and takes decisions according to political interests." MVR Deputy Willian Lara called the decision proof that "the Venezuelan state respects the rights, even of those who do not respect the Bolivarian Constitution and the law..." The DCM met with Capriles' mother August 30, and advised her on her September 1 meeting with Vice President Rangel. A source close to Rangel told the Ambassador that Rangel had persuaded Chavez that the GOV should -- informally -- prevail on the courts to free Capriles. End Summary.

Capriles Freed

¶2. (U) Judge Dayva Soto Vallenilla ruled in favor of a defense motion to free Baruta Mayor Henrique Capriles (Primero Justicia) from pre-trial detention on September 6, after 120 days in DISIP custody. Capriles is charged with colluding with rioters in front of the Cuban Embassy on April 12, 2002. Judge Soto substituted the detention order with the requirement that Capriles present himself to the court every 15 days, not leave Venezuela, and not make public comments on the case. Prosecutor Danilo Anderson has five days to consider an appeal of the decision. Capriles was released the evening of September 6.

Lopez Cites Leon Case

¶3. (U) Chacao Mayor Leopoldo Lopez (Primero Justicia) told reporters the decision was, "a ray of light in a Judicial Power which is rotten, and takes decisions according to political interests." Lopez pointed to the arrest on September 4 of Judge Juan Ramon Leon Villanueva, on charges of trying to bribe the head of Venezuela's investigative police (CICPC). Leon was the judge who ordered Capriles be sent to trial on August 18. Lopez called Leon, "a corrupt judge who was seen committing extortion, and who ended up showing that the Capriles case was political."

Even Justice for our Enemies

¶4. (U) MVR Deputy Willian Lara told official news agency VenPress that the decision to release Capriles was proof that, "the Venezuelan state respects the rights, even of those who do not respect the Bolivarian Constitution and the law, with anti-democratic conduct of a fascist character, as was (Capriles') on April 12, 2002 in the assault on the Cuban Embassy." He said the decision invalidates all the accusations of Primero Justicia leaders that Capriles' rights had been violated.

The Judge

¶5. (C) Capriles defense lawyer Juan Martin Echeverria told PolOff August 31, when the case was assigned to Judge Soto, that she was a professional judge with several years on the bench. He said he was sure she would be under pressure to conform to the GOV line on the case. Trial Judge Beatriz

Perez told PolOff September 3 that Judge Soto was not a Chavista, and noted that she had made no effort to have herself removed from the controversial case.

DCM Meets with Capriles Mother

16. (C) The DCM met with Capriles' mother, Monica Radonski, August 30. Ms. Radonski told the DCM she had an appointment with Vice President Jose Vicente Rangel, and asked DCM for his advice on how best to take advantage of the meeting. The DCM advised Ms. Radonski to make an appeal to Rangel on humanitarian grounds, to leave her lawyers behind, and not to make accusations about the political nature of the case.

17. (C) A source close to VP Rangel told the Ambassador and DCM September 7 that Rangel had convinced the President that they should find a way to get the court to release Capriles. President Carter had raised the issue with Chavez, and we believe this helped as well.

Comment

18. (C) The GOV was looking for some way out of the Capriles situation. It did so without ostensibly violating the separation of powers -- but clearly Chavez' change of mind drove the process. This decision temporarily reduces pressure on the GOV on human rights issues. How the GOV proceeds with the trial will still be significant, as will be the conclusion of the trial of nine Chavez opponents in Tachira state (which we understand the GOV is examining) and the proceedings against Generals Alfonzo, Uson and Poggioli.
Brownfield

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